2 Why Was CERCLA Enacted?

Love Canal is a name familiar to every environmental lawyer in the United States. Love Canal was one of the most highly publicized incidents of environmental contamination that this country has ever known. In the summer of 1977, the state of New York declared a health emergency and evacuated 200 families from their homes in the area of Love Canal, a dump site for hazardous chemicals located near Niagara Falls, New York. Citizens in the Love Canal area found waste chemicals seeping up from the ground into their basements. A wide range of health effects were alleged and feared.

In 1980, the United States filed a $134 million lawsuit against the company allegedly responsible for dumping tens of thousands of tons of chemical waste at Love Canal in the 1940s and 1950s, before abandoning the site. Originally, the complaint primarily was based on the Resource Conservation and Recovery Act (RCRA), the Clean Water Act, and the Safe Drinking Water Act. Subsequently, the state of New York was joined as a plaintiff in the federal action with claims based on public and private nuisance and restitution.

While Congressional efforts had been ongoing for several years to enact legislation addressing liability and compensation for injury to the environment from releases of hazardous substances, public attention on Love Canal became the catalyst for serious Congressional consideration of cleanup legislation. In late 1980,

Why Was CERCLA Enacted?

Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), P.L. 96-510.4

The term "Superfund" came into usage in the halls of Capitol Hill as various bills were under consideration. The term itself reflected the Congressional perception of the size of the problem and the tremendous anticipated costs of cleaning up America’s dump sites. As legislation moved forward, the term “Superfund” was picked up and used by the media to describe various proposals to address not only remediation of dump sites, but also funds for compensation to individuals who might have been injured by exposure to hazardous wastes.

Interestingly, the act that was ultimately passed by Congress did not contain the term “Superfund.” Although the environmental bar and the media continued to refer to the legislation as “Superfund,” the term was not used in legislation until passage of the Superfund Amendments and Reauthorization Act (SARA),5 in 1986.

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4. Ultimately, the federal government evacuated the Love Canal residents, paid them for their homes, and demolished the neighborhood. The case was settled and the federal government recovered $129 million to cover its cleanup costs. New York recovered $98 million and the liable company further agreed to assume continued operation and maintenance of the remedial and monitoring facilities.